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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Shunpei Yamazaki

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EXAMINER

WILCZEWSKI, MARY A

ART UNIT

PAPER NUMBER

2822

MAIL DATE

DELIVERY MODE

10/22/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/678,139	Applicant(s) YAMAZAKI ET AL.	
	Examiner MARY WILCZEWSKI	Art Unit 2822	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 08/536,977.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office action is in response to the Amendment filed on 26 October 2009.

Claims 7-37 are pending in the application. Claims 1-6 have been cancelled.

Claims 7-37, presented in the amendment filed on 26 October 2009, do not comply with 37 CFR 1.173(b), which requires the material to be added by reissue to be underlined. Applicant is notified that any subsequent amendment to the specification and/or claims must comply with 37 CFR 1.173(b). In addition, when any substantive amendment is filed in the reissue application, which amendment otherwise places the reissue application in condition for allowance, a supplemental oath/declaration will be required. See MPEP § 1414.01.

Specification

The objection to the disclosure is withdrawn in light of the amendment made to Applicant's specification.

Certificate of Correction

The Certificate of Correction filed in RE38266 on 23 February 2010 is acknowledged.

Oath/Declaration

The reissue oath/declaration filed with this application is defective because it fails to identify at least one error which is relied upon to support the reissue application. See 37 CFR 1.175(a)(1) and MPEP § 1414.

The declaration filed on 26 October 2009 asserts an error that is directed to subject matter which is not in the claims of the original patent (US 6,071,766), therefore, the error does not support this reissue.

The error asserted on the reissue declaration filed on 26 October 2009 in this application is:

Applicants inadvertently included the feature of silicon nitride as a metal element diffusion film in the claims of the original patent. This feature is unnecessary for patentability and narrows the claims below a scope which the inventors had a right to claim in the patent. This feature is not recited in the claims of this reissue application.

The claims of the original patent (US 6,071,766) do not include the feature of silicon nitride as a metal element diffusion film. Rather, the originally patented claims recited "a metal element diffusion film comprising a semiconductor". The error asserted in the newly-filed oath is clearly incorrect since silicon nitride is not claimed as the metal diffusion film in the original patent (US 6,071,766). Moreover, both the instant claims and the patented claims recite "a metal element diffusion film comprising a semiconductor" (see claims 7, 12, 17, and 22 of the instant application and claims 1 and 6 of original Patent US 6,071,766).

Moreover, the error corrected in the instant divisional reissue application must be an error in the **original patent** (US 6,071,766), not an error in the reissue patent (RE38266). Since the original patent claims recited "a metal element diffusion film comprising a semiconductor", Applicant cannot assert the error is that Applicant inadvertently included the feature of silicon as a metal element diffusion film in the claims of the original patent, since this limitation is not recited in the claims of the original patent. A metal element diffusion film comprising silicon is recited only in claim 9 of RE38266. The error asserted in the reissue declaration of the instant application must be an error in the original Patent US 6,071,766, not in the reissue Patent RE38266. Claim 9 of RE38266 is reproduced below:

*9. A method for fabricating a semiconductor device comprising the steps of:
providing an amorphous semiconductor film with a metal element which promotes crystallization of said semiconductor film;
crystallizing said amorphous semiconductor film to obtain a crystalline semiconductor film;
forming an etching stopper film on said crystalline semiconductor film;
forming a metal element diffusion film comprising silicon on said etching stopper film;
diffusing said metal element into said metal element diffusion film from said crystalline semiconductor film;
and
removing said metal element diffusion film after diffusing said metal element.
10. The method according to claim 9 wherein said metal element diffusion film comprises amorphous silicon.
11. The method according to claim 9 wherein said metal element diffusion film comprises polycrystalline silicon.
12. The method according to claim 9 wherein said metal element diffusion film comprises amorphous $\text{Si}_x\text{Ge}_{1-x}$ ($0 < x < 1$).*

Furthermore, the error corrected in the instant divisional reissue application must be an error different from the error corrected by the parent reissue application.

A new declaration with a new error being corrected by the present reissue is required.

Assent of Assignee

The Consent of Assignee; Statement of Non-Assignment filed on 26 October 2009 is acknowledged.

Claim Rejections

Claims 7-37 are rejected as being based upon a defective reissue Declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the Declaration is set forth in the discussion above in this Office action.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARY WILCZEWSKI whose telephone number is (571)272-1849. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zandra Smith can be reached on 571-272-2429. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. Wilczewski/
Primary Examiner, Art Unit 2822

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